

Administrative Notice DMMA-03-2007

TO: All DMMA Staff

DATE: April 10, 2007

SUBJECT: Life Estates

**BACKGROUND**

On February 8, 2006, the Deficit Reduction Act (DRA) of 2005 was signed into law. The DRA made changes to certain Medicaid eligibility provisions in Section 1917(c)(1) of Social Security Act affecting Long Term Care services and supports.

**DISCUSSION**

In some States individuals would avoid a transfer of assets penalty by purchasing a life estate interest in another individual's home. It was alleged that something of value, i.e., the life estate, had been received in exchange for the funds paid. In many cases the purchaser never lived in the home and was in effect making a gift to the owner, who retained the remainder interest.

The DRA amendment provides that unless the individual purchasing a life estate in another individual's home actually resides there for a period of at least one year after the date of purchase, the transaction should be treated as a transfer of assets. The amount of the transfer is the entire amount used to purchase the life estate.

This amendment does not replace any existing provisions. It is only adding a criterion for determining whether a transfer of assets has occurred.

**ACTION REQUIRED**

- Determine if a life estate has been purchased
- Verify if the individual who purchased the life estate has resided in the home for at least one year
- If no, consider the entire purchase amount as a transfer of assets
- If the individual has resided in the home for at least one year continue with current resource eligibility and transfer of assets rules.
- Review DSSM policy 20320.2.2 and 20320.2.2.2

**DIRECT INQUIRIES TO**

Barbara L Lewis  
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**Signed - April 11, 2007**

HARRY B. HILL, DIRECTOR  
DIVISION OF MEDICAID & MEDICAL ASSISTANCE